

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

JEFFERY T. JACKSON RECEIVED

PLAINTIFF 1  
APR 18 A 9:50

v.

SEBRA P. HACKETT, CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

CASE NO. 2:05-CV-1138 MEF

ELLEN I. BROOKS, AND  
INB

DEPENDANTS. 1

MOTION TO AMEND OR VACATE  
FINAL JUDGMENT

COME NOW, PLAINTIFF, PRO SE, IN THE ABOVE  
STYLE CAUSE AND RESPECTFULLY MOVE THIS HONORABLE  
COURT TO AMEND OR VACATE ITS FINAL JUDGMENT  
ENTERED IN THIS ACTION ON MARCH 27, 2002, UNDER  
RULE 60 (b) OF THE FED. R. CIV. P.

IN THIS 42 U.S.C. § 1983, PLAINTIFF, ASSERT  
THAT HIS CONSTITUTIONAL RIGHTS WERE VIOLATED  
ON MARCH 18, 2002 WHEN HE WAS UNCONSTITUTIONALLY  
ARRESTED AND THEN SUBJECTED TO A MALICIOUS  
PROSECUTION IN VIOLATION DOUBLE JEOPARDY CLAUSE.

ON FEBRUARY 14, 2000, A PLEA OF GUILTY WAS  
ENTERED BY THE TRIAL COURT. ON MARCH 18, 2002  
PLAINTIFF WAS ARRESTED ON A WARRANT  
FOR FAILURE TO APPEAR IN COURT FOR SENTENCING.

(1.) THE TRIAL COURT, ON MARCH 28, 2002, ENTERED A  
MUNC PRO TUNC ORDER REVERSING AND INVALIDATING  
THE CONVICTION ON FEBRUARY 14, 2000.

Plaintiff. UNCONSTITUTIONAL ARREST WERE CAUSED BY THE DEFENDANTS WITH MALICE AND WITHOUT PROBABLE CAUSE TO BELIEVE THAT HE FAILED TO APPEAR IN COURT FOR SENTENCING. THIS ARREST WAS THE RESULT OF AN INDEPENDANT INVESTIGATION MADE BY THE DEFENDANTS.

THE DEFENDANT'S IN VIOLATION OF THE DOUBLE JEOPARDY CLAUSE OF THE UNITED STATES AND ALABAMA CONSTITUTION 1901 PROSECUTED THE PLAINTIFF A SECOND TIME UNDER CASE NO. CC 99-2133 AND CC 91-163. ON FEBRUARY 14, 2000 AND JUNE 17, 2002.

Plaintiff. BRINGS THIS ACTION AGAINST THE DEFENDANT TO RECOVER DAMAGES SUSTAINED AS A RESULT OF AN UNCONSTITUTIONAL ARREST AND MALICIOUS PROSECUTION WHICH WAS INSTIGATED BY THE DEFENDANTS.

THE DEFENDANTS, ACTING UNDER COLOR OF STATE LAW, VIOLATED PLAINTIFF'S CONSTITUTIONAL RIGHTS. RIGHT TO EQUAL PROTECTION OF THE LAW BECAUSE HE IS A POOR BLACK MAN.

WHERE PROSECUTOR FACES AN ACTUAL CONFLICT OF INTEREST AND FILES CHARGES HE OR SHE KNOWS TO BE BASELESS, PROSECUTOR IS ACTING OUTSIDE SCOPE OF HIS OR HER AUTHORITY AND LACKS IMMUNITY. BEARD V. LIDALL, 648 F.2d 1264 (1981)

DEFENDANTS WERE NOT PERFORMING OFFICAL DUTIES WHEN THEY FILED CHARGES AGAINST PLAINTIFF WHERE THE CHARGES WERE FILED AS PART OF EXTORTION PLAN.

PLAINTIFF FILED OBJECTIONS TO THE MAGISTRATE JUDGE'S RECOMMENDATION TO GRANT DEFENDANT'S MOTION FOR SUMMARY JUDGMENT ON MARCH 26, 2008.

PLAINTIFF OBJECTION TO THE RECOMMENDATION OF THE MAGISTRATE JUDGE WAS FILED ON MARCH 26, 2008. AND WAS OVERRULED ON MARCH 27, 2008.

THE RECOMMENDATION OF THE MAGISTRATE JUDGE ENTERED ON MARCH 14, 2008 WAS ADOPTED ON MARCH 27, 2008 AND DEFENDANT'S MOTION WAS GRANTED.

PLAINTIFF'S MOTION TO AMEND OR VACATE THE FINAL JUDGMENT FOLLOWS ON APRIL 14, 2008.

THE MOTION FOR SUMMARY JUDGMENT SHALL BE SERVED AT LEAST TEN DAYS BEFORE THE TIME FIXED FOR THE HEARING. ALA. R. CIV. P. 56 (C).

THUS, IT IS MANDATORY FOR THE MOVANT TO GIVE THE OPPOSING PARTY TEN DAYS NOTICE IN ORDER FOR HIM TO FILED COURTER AFFIDAVITS. ALA. R. CIV. P. 56 (C).

IT WOULD BE ERROR NOT TO GIVE THE OPPOSING PARTY TEN DAYS NOTICE. *Billingly v. GORDEN*, 340 SO. 2D 743 (1977).

(3.) PLAINTIFF IS CONTENDING THAT THE TRIAL COURT ERRED IN RECOMMENDING THAT DEFENDANT'S SUMMARY JUDGMENT MOTION BE GRANTED WITHOUT PRIOR NOTICE TO PLAINTIFF THAT A HEARING WOULD BE HELD TO DETERMINE IF SUMMARY JUDGMENT WOULD BE APPROPRIATE OR PROPER.

PLAINTIFF MOVES THIS COURT TO AMEND OR VACATE ITS FINAL JUDGMENT UNDER RULE 60 (b) ON THE FOLLOWING GROUNDS:

- (1) NEWLY DISCOVERED EVIDENCE WHICH BY DUE DUE DILIGENCE COULD NOT HAVE BEEN DISCOVERED IN TIME TO MOVE FOR A NEW TRIAL UNDER RULE 59 (b).
- (2) THE TRIAL COURT ERRED ON MARCH 14, 2008 WHEN IT HELD A HEARING ON DEFENDANTS MOTION FOR SUMMARY JUDGMENT WITHOUT PRIOR NOTICE TO PLAINTIFF AS REQUIRED BY RULE 56 (b) ALA. RULE OF CIVIL PROCEDURE.
- (3) PLAINTIFF WAS PREJUDICED WHEN HE WAS PUT OFF FROM THE OPPORTUNITY TO PRESENT REBUTTING EVIDENCE AND ARGUMENT RELEVANT TO SUMMARY JUDGMENT.

WHEREFORE,

PLAINTIFF RESPECTFULLY REQUEST THAT AN ORDER BE GRANTED TO VACATE THE FINAL JUDGMENT ENTERED ON MARCH 27, 2008 AND THAT SUMMARY JUDGMENT BE DENIED TO THE DEFENDANTS AND FOR SUCH OTHER AND FURTHER RELIEF AS TO THE COURT MAY SEEM JUST AND PROPER.

(4.)

RESPECTFULLY SUBMITTED ON  
APRIL 14, 2008

Jeffery J. Jackson  
PRO SE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON THIS 15th DAY of APRIL, 2008. I SERVED A COPY OF THE FOREGOING ON THE DEFENDANTS ATTORNEY BY PLACING THE SAME IN THE U.S. MAIL, LOCATED AT ST. CLAIR CORR. FACILITY, POSTAGE PREPAID AND PROPERLY ADDRESSED AS FOLLOWS:

J. MATT BLEDSOE  
ASS.: ATTORNEY GENERAL  
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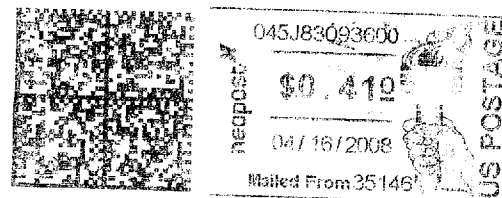
Jeffery J. Jackson  
PRO SE

C.C. JEFFERY J. JACKSON



JEFFERY J. JACKSON - A15.128248  
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